

ARTICLE 1
TITLE DEFINITIONS

§ 120-1. Statutory authorization

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and for each of the purposes specified therein. The Town Board of the Town of Holland, County of Erie and State of New York, has ordained and does hereby enact this chapter regulating and restricting the location, size, and use of buildings and other structures and the use of the land in the Town of Holland.

§ 120-2. Title

This chapter shall be known and may be cited as the “Zoning Ordinance of the Town of Holland.”

§ 120-3. Word usage: definitions.

- A. For the purposes of this chapter, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular. The word “person” includes a firm, partnership or corporation as well as an individual. The word “used” shall be interpreted to include the term “designed or intended to be used.” The term “shall” is always mandatory.
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING-- A subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an “accessory building” is attached to the main building in a substantial manner, as by a wall or roof, such “accessory building” shall be considered part of the main building in determining yard requirements.

ACCESSORY USE— A use customarily incidental and subordinate to the main use or building and located on the same lot therewith.

ALTERATIONS— As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

AUTOMOTIVE JUNKYARD—As provided in Chapter 75, Junkyards and Junk Dealers. **[Amended 7-13-1988 by L.L. No.2-1988]**

BASEMENT—Part of a structure below ground level, which construction shall include either a block wall of ten-inch minimum blocks or an equivalent strength for a poured wall with a minimum height clearance of seven feet. **[Added 7-9-1997 by L.L. No.4-1997]**

BED-AND-BREAKFAST BOARDING- OR ROOMING HOUSE—The furnishing of meals and/or living accommodations for five or more persons on a daily, weekly or longer time basis for compensation **[Amended 5-12-1993 by L.L. No.1-1993]**

BUILDING COVERAGE- The horizontal area of a lot covered by buildings, measured to the outside of walls.

BUILDING HEIGHTS—The vertical distance measured from the average elevation or the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

CAMPING GROUND—Land used on a seasonal basis for accommodation of tents, trailers or other non-dwelling arrangements. This term does not include mobile home courts. **[Amended 7-13-1988 by L.L. No. 2-1988; 5-12-1993 by L.L. No.1-1993]**

CERTIFICATE OF OCCUPANCY—A certificate issued by the Building Zoning Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this chapter and such adjustments thereto granted by the Board of Appeals. **[Amended 7-13-1988 by L.L. No. 2-1988]**

CLUSTER DEVELOPMENT—A development of residential lots, each containing less area than the minimum lot required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the subdivision plan.

COMMERCIAL GARAGE- Any building, structure or lot which is used for the repair, maintenance or equipment of motor vehicles. This definition shall apply to §120-26, HB Highway Business District, §120-27, and M Manufacturing and Industrial District. For the purpose of lot and bulk requirements in the HB District, “commercial garages” shall be regulated under retail and service uses. For the purpose of the Schedule of Area, Lot and Bulk Requirements for the Manufacturing and Industrial District, special garages shall be in addition to those previously scheduled. **[Added 7-13-1988 by L.L. No. 2-1988; amended 1-8-1992 by L.L. No.1-1992]**

DWELLING—A building used as the living quarters for one or more families, but not including a boardinghouse or rooming house, hotel or lodging house or motel.

DWELLING, MULTIFAMILY—A building or group of buildings on one lot containing three or more dwelling units or two or more buildings with one or more dwellings on one lot.**[Amended 1-8-1992 by L.L. No.1-1992]**

DWELLING, ONE-FAMILY—A building containing one dwelling unit. **[Amended 1-8-1992 by L.L. No. 1-1992]**

DWELLING. TWO-FAMILY—A building containing two dwelling units or two buildings containing one dwelling unit, only one of which may be a principal dwelling and the second an accessory dwelling. **[Amended 1-8-1992 by L.L. No.1-1992; 7-9-1997 by L.L. No.4- 1997]**

DWELLING UNIT – A structure or part of a structure containing a room or rooms designed for human occupancy by one family and including customary kitchen facilities.

FAMILY—One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this chapter by definition or as an accessory use.

FARM—Ten (10) acres or more in Rural Residential and Agricultural (R-A) Districts¹

FARM BUILDING or USE—Any use of land or buildings customarily a part of farm or agricultural pursuits, including the housing of farm animals, except fur-bearing animals, the repair of equipment used on the premises and the sale of farm products where such is clearly incidental to the overall use of the premises as a farm.

FENCE—Any structure, regardless of composition, except a living fence, that is erected or maintained for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions.¹

FLAMMABLE LIQUID—A liquid having a flash point below two hundred degrees Fahrenheit (200° F.). Closed cup tester. Class 1 “flammable liquids” (e.g., gasoline, ether, and liquid petroleum gas) are those having a flash point below twenty-five degrees Fahrenheit (25° F.). Class II “flammable liquids” are those having a flash point below seventy degrees Fahrenheit (70°F.), but not below twenty-five degrees Fahrenheit (25°F.).

GARAGE, PRIVATE—An accessory building or portion or a main building used for the storage of automotive vehicles used by the occupants of the premises ²

GASOLINE SERVICE STATION—A building structure or tract of land used for the storage and sale of gasoline, motor fuels, lubricants, accessories, supplies and any other materials related to the maintenance or equipment of automobiles or in which repairs, adjustments, maintenance or the equipping of automobiles is conducted. The term shall include, without limitation, the rendering of the following services: fueling; changing oil, water, batteries or tires; replacing fan belts, air filters or oil filters; and installing windshield wiper blades or light bulbs. The term shall not include any such establishment, which renders such services or stores such materials for a single commercial or industrial establishment rather than offering such services and materials to the public. ⁷

HEIGHT—In regard to fences, the distance measured from the existing grade to the top of the fence. ⁸

HOME OCCUPATION—Any occupation carried on as a subordinate use by a member of the family residing on the premises of a residential lot which does not substantially alter the character and appearance of the property. ⁹

HOME PROFESSIONAL OCCUPATION—The office of a member of a recognized profession when conducted on residential property; such occupations shall include but not be limited to those of doctors, lawyers, architects, engineers, artists, ministers and other recognized professional persons.

HOTEL or LODGING HOUSE—A building containing sleeping rooms for five (5) or more persons, which rooms are available to the public for less than a week at a time for compensation, with no cooking or dining facilities except a general kitchen and public dining room.

LOT—A parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same. A lot within the meaning of this chapter may or may not be a lot as shown on a subdivision plat, assessment record or recorded deed.

LOT AREA—The net area contained within lot lines.

LOT LINES—The property lines bounding the lot.

(1) **FRONT LOT LINE**—The right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the “front lot line.”

(2) **REAR LOT LINE**—The lot line most distant from the front lot line.

LOT WIDTH—The least horizontal distance across the lot between side lot lines measured at the nearest street or highway center line; also, the least horizontal distance across a lot between side lot lines measured at the front of a main building erected or to be erected on such lot or at a distance from the front lot line equal to the required depth of front yard. **[Amended 1-12-1994 by L.L. No.1-1994]**

MOBILE HOME—Any vehicle or combination thereof used, designed for use or capable of being used for sleeping or living quarters for one (1) or more persons, designed to be moved from one location to another by means of wheels affixed to an axle or carriage affixed to the vehicle, whether propelled by its own power or by the power of another vehicle to which it may be attached, and whether the axle or carriage to which the wheels may be affixed is detachable or detached, and irrespective of the name or title assigned or designated by the manufacturer of the unit or any other persons.

MOTEL—A building or group of buildings used primarily as sleeping or living quarters for transient automobile travelers and providing for accessory off-street parking but with no cooking facilities except in a restaurant or caretaker’s unit. The term includes auto courts, cabin courts, motor lodges, tourist courts and similar appellations, but not trailer camps.

NONCONFORMING USE—Lawful occupancy of a structure or land by a use or activity which was lawful prior to the adoption or amendment of this Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment. **[Amended 7-13-1988 by L.L. No.2-1988]**

NURSERY SCHOOL—Use of a building or lot, or part of a building or lot, for nursery or other care of more than five (5) children under six (6) years of age not residing on the premises and conducted on a regularly scheduled basis.

NURSING HOME—Use of a building for nursing care of two (2) or more persons not related to the operators by family ties and done for compensation. **[Amended 7-13-1988 by L.L. No.2-1988]**⁽¹⁾

OFF-STREET LOADING SPACE—An unobstructed area having access to a street suitable for the loading or unloading of motor transport vehicles with minimum dimensions of twelve (12) feet in height, ten (10) feet in width and fifty (50) feet in depth.

OFF-STREET PARKING SPACE—An unobstructed area having access to a street suitable for the parking of passenger motor vehicles and with minimum dimensions of ten (10) feet in width and twenty (20) feet in depth.

PERSONAL SERVICE ESTABLISHMENT—An office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a barber, beautician, tailor or dressmaker.

PROFESSIONAL OFFICE—When operated as a permitted accessory use in a residence district, a room or rooms on the same lot as the residence of a professional doctor, dentist, engineer, architect or other recognized professional, used as a place of business for such profession in a manner clearly accessory to the dwelling use of the lot. 8

SEASONAL BASIS—The conducting of a use for a period not exceeding six months in any calendar year. **[Amended 7-9-1997 by L.L. No.4-1997]**

SETBACK—The least horizontal distance from any building to the nearest street or highway right-of-way.

SIGN—Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or any other structure or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any structure or surface, but not including signs placed or erected by the Town of Holland, the County of Erie or the State of New York for the purpose of showing street names, traffic directions or regulations or for other public purposes or street numbers placed or affixed to buildings.

SIGN AREA—The area defined by the frame or edge of a sign. Where there is not geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape, which most closely outlines said sign.

SITE PLAN—A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SPECIAL PERMIT USES—A use requiring the additional standards and approval as specified in article VI.

STORY—That portion of a building between the surface of any floor and the surface of the floor next or, if there is no floor above it, then the space between any floor and ceiling next above it. A basement shall be counted as a “story” for purposes of height measurement if the ceiling is more than five (5) feet above the average adjoining ground level. A “half-story” is a story under a sloping roof, having a ceiling height of seven (7) feet or more or not exceeding one-half (1/2) the floor area of the uppermost full story in the building.

STRUCTURE—Anything constructed or erected which requires permanent location on the front or attachment to something having such location.

STRUCTURE ALTERATIONS—Any change in the supporting members of a building or other structure, such as bearing walls, columns, beams or girders.

USE—The specific purposes, for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

USABLE OPEN SPACE—An area on a lot with a main building, unbuilt on and open to the sky, of such shape, location and character as to be usable for laundry drying, recreational use by small children and other dwelling accessory use, but not to be used for vehicle parking.

WASTE [Added 7-13-1988 by L.L. No.2-1988]— As provided for in § 27-0303, Subdivision 7 and § 27-0901, Subdivision 11, of the New York Environmental Conservation Law.

(1) **DISPOSAL**—As provided in § 27-0303, Subdivision 1, of the New York Environmental Conservation Law.

- (2) INDUSTRIAL-COMMERCIAL WASTE—As provided in § 27-0303, Subdivision 2, at the New York Environmental Conservation Law.
- (3) REGULATED WASTE—As provided in § 27-0701, Subdivision 1, of the New York Environmental Conservation Law.
- (4) SOLID WASTE—As provided in § 27-0701, Subdivision 1, of the New York Environmental Conservation Law.

YARD, FRONT:

- (1) An open space extending the full width of the lot between a main building, structure or portion thereof and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least horizontal distance between the front lot line and the front of such main building.
- (2) All corner properties adjacent to a public street, alley or highway shall also be considered as a “front yard” for purposes of this chapter. However, this definition shall specifically not apply for purposes of swimming pool protection. **[Added 7-13-1988 by L.L. No. 2-1988; amended 1-8-1992 by L.L. No. 1-1992]**

YARD, REAR—An open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least horizontal distance between the rear lot line and the rear of such main building.

YARD, SIDE—An open space extending from the front yard or the rear yard between a main building structure or portion thereof and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified. The required width of the “side yard” shall be measured horizontally from the nearest point of the side lot line to the nearest building.